

January 6, 2014

Governor Steve Bullock
P.O. Box 200801
Helena, MT 59620-0801

Attorney General Tim Fox
P.O. Box 201401
Helena, MT 59620-1401

Dear Governor Bullock and Attorney General Fox,

As Flathead Irrigation District farmers and ranchers, as irrigators who make their living from the land, we have some grave concerns about the misinformation that is circulating about the proposed Water Use Agreement and the Flathead Reservation Compact.

Every legal water right has four attributes—a point of diversion—a place of use—a flow rate—and a priority date, or date of appropriation. Of these, the last—priority date, is most important, especially in times of drought. Under western water law, 100% of the senior water right must be satisfied before water can be released to a junior right. There is no sharing of water shortages between junior and senior rights. In times of drought, that means that junior rights may not receive any water at all, depending on the available supply.

In the Klamath River Basin in southern Oregon, a negotiated settlement was reached several years ago that provided for water and sharing in times of shortages between junior and senior water rights involving irrigation districts and the Klamath Tribes. Other irrigators refused to participate in the negotiated settlement, however. This year, the irrigators with the negotiated settlement are receiving water and the irrigators who refused to negotiate are having ‘calls’ placed on their water, which means they cannot irrigate because the water they are using needs to satisfy the senior Indian water right. According to news articles, this involves at least 58,000 acres of irrigated land.

We do not want that to happen here, on the Flathead Indian Irrigation Project or on the Flathead Indian Reservation. We believe the proposed Water Use Agreement and the Flathead Reservation Compact should be approved and implemented by the State of Montana, the U.S. and the CSKT.

The FJBC spent millions litigating instream flows in the late 1980’s and early 1990’s. The FJBC lost. We believe the FJBC will lose again and we do not want to pay for more litigation. We do not want to pay for increased pumping costs which may approach \$6.00-\$7.00 per acre after 2015. We do not want to lose the benefits of a secure supply of irrigation water guaranteed by the water use agreement. We do not want to lose the benefits of state and federal dollars fixing our irrigation project.

WATER POLICY INTERIM
COMMITTEE. 2013-14

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Ex. No. 22

We would like to address and rebut some erroneous claims being promoted by Compact opponents:

First, the Compact does not allow CSKT control of all the water in western Montana, or even on the Flathead Indian Reservation. In fact, simply reading the proposed Water Use Agreement and Compact proves that to be a false claim. The Compact clearly states that Montana will administer all off reservation water, including water rights co-owned between the CSKT and Montana and water rights held by the CSKT. The Water use agreement clearly states that private and secretarial water rights are not included in the Agreement or Compact and that the Montana Water Court will adjudicate those claims. Finally, The CSKT also do not have unilateral jurisdiction on the Flathead Reservation, either. The Compact sets up a six member board, with five voting members to oversee administration of water rights and permits on the Reservation. Only two of these six members are appointed by the CSKT. Does this sound like the CSKT will have unilateral control of water in western Montana? No.

Second, the Water Use Agreement provides a good, secure water supply for irrigators, including a mechanism for irrigators to continue to receive extra duty water. This provides Flathead Project irrigators with a reliable supply of water, without any litigation costs and also provides large amounts of state and federal dollars to improve the irrigation project. These are dollars that irrigators will not have to raise themselves to affect much needed repairs.

Third, there is no provision in the Water Use Agreement or Compact that allows the CSKT to monitor or meter wells. The Unitary Management board may require meters on new large wells, as is done in other areas of the state, but that is for the protection of existing small wells, as is done in other areas of the state.

Fourth, the Compact specifically provides a mechanism not only for the protection of existing water uses, such as all the wells that have been drilled since 1996 without any permits, but also provides for the development of future uses, including new wells. These Compact provisions virtually mirror Montana law. The Compact and Water Use agreement provide certainty and security that is now lacking, without spending millions of dollars in litigation costs.

Governor Bullock, we respectfully request your support for the Flathead Reservation Compact to be addressed in a special session of the Montana legislature. We cannot afford the alternative.

Signed**:

Duane Weible, Charlo
Paul & Sharon Guenzler, Ronan
Chris Hertz, Charlo
Jack Horner, Ronan
Roger Starkel, Ronan
Ken & Gina McAlpin, Ronan
Randa McAlpin, Polson
Cody and Libby Sherman, Ronan
Ken Cornelius, Ronan

Ed Starkel, Polson
Larry & Dee Coleman, Coleman Angus, Charlo
Harley & Sharon Coleman, Charlo
Chuck & Doris Stipe, Moiese
Larry & Anita Coleman, Charlo
Roy & Evelyn Lake, Ronan
Jack & Susan Lake, Ronan
Harold & Pat Hughes, Valley View
Dave Stipe, Charlo
Kathy Emerson, Ronan
John Bartel, Ronan
Russ & Joan Sherman, Ronan
Ralph Salomon, Ronan
Dan Salomon, Ronan
Steve Hughes, Polson
David Morigeau, Ronan
Haack Family Farms, Polson
Susie Aders, Polson
Jim Smith Family, Ronan
Tomi & Jeff Clairmont, Ronan
Jamie & Craig Cornelius, Ronan
Zon Lloyd, Ronan
Dean Wang, Charlo
Danny Krantz, Charlo
Paul Wadsworth, St. Ignatius
Scott Wadsworth, St. Ignatius
Pat Salomon, Polson
Mark Jackson, Ronan
Robert Sterling Trust B, R.A. Sterling, Trustee, Polson
Rory & Jan Schauss, Ronan
Karen & Daniel Ryan, Ronan
Barry Baker, Ronan
Joel Clairmont, Polson & Helena
Mac (James) Binger, Polson
Greg & Lyn Gardner, Polson
Bob & Kathy Smith, Ronan
Northwest Holdings, L.L.C., Polson
Dennis Duty, Polson
Corey & Carrie Guenzler, Hot Springs
Jack & Claudia McReady, St. Ignatius
Troy & Tonya Truman, Charlo
Dianne Lerwick, Albin, WY
David Lake, Polson
Daniel Lake, Polson
Tim Lake, Polson
Pat Lake, Polson

Leroy Hoversland, Ronan
Joseph F. Stiley, Ronan
Mandy M. Tupin, Ronan
Theresa Wall-McDonald, Ronan (non-district)
Thomas R. McDonald, Ronan (non-district)
Raymond C. & Mary J. Carl, Ronan (non-district)
Ken Matheny & Sandy Moore, Ronan
Cory Symington, Ronan
George & Nancy Delie, Ronan
Trent & Melissa Coleman, Charlo
Thompson Smith & Karen Stallard, Charlo
Ninepipes L.L.C., Charlo
Rick & Kathy Woodruff, Charlo
Eileen McMillan, Ronan
Florence P. Saloane, Ronan
Bill & Lorna Kolstad, Ronan
Rodney & Martha Hyvonen, Charlo
Wayne & Louise Billings, St. Ignatius
Cort Potter, Charlo
Vern & Barbie Stipe, Charlo
Nick J. & Martin J. Herak, Charlo
Lawrence & Lorraine Cornelius, Ronan
Marilyn Koester, Ronan
Ann L. Fleming, Ronan
Esther Bick, Charlo
Pat & Neil Fleming, Ronan
Doug Hahn, Ronan
Marion Hahn, Roy, Washington (Ronan area property)
Jimmie & Donna Johnson, Ronan
Agnes Wangerin, Ronan
Rick & Marsha Giannini, Ronan
Edward (Kent) Duckworth, Ronan
Dick Vinson, Thompson Falls (non-district)
Verlin & Marabeth Mintz, Charlo
Judy Rasmussen, Carl Guenzler Retrieverland L.L.C., Ronan
Sidney & Reba Turnquist, Ronan
Doug & Kathy Crockett, Ronan
Eugene Bilile, Ronan
Janet Franz, Cheney, Washington (Charlo)
Glenwood Farms North, Will & Jan Tusick, Polson
Sigurd Jensen, Elmo (non-district)
Paul Hunsucker, Polson
Virgil & Barb Rinke, Ronan
Paul Cullen, Ronan
Valley View Charlais Scott & Buddy Westphal, Polson
Gail & Jean Patton, Hot Springs

Ron & Carmel Couture, Ronan
Bill Meadows, Trout Creek (non-district)
John Salomon, Ronan
Bob & Myrna Gauthier, Ronan
Donald Olsson Jr., Ronan
Curtis & Janette Rosman, Charlo (Mission & Flathead District)
Krantz Family Limited Partners, Ronan
Cynthia Gabriel, Charlo
Oliver & Lois Dupuis, Polson
Kendall & Linda Dupuis, Polson
Lila Nelson Normandeau, Ronan
Paddy Trusler, Polson
Scott & Debbie Lund, Ronan
Dave Robbins, Triple D Ranch, Ronan
Bud & Ramona Lynch, Ronan
Moiese Valley Ranch, L.L.C., Charlo
Ninepipe Ranch L.L.C., Missoula (Non-District)
Post Creek Springs, Ltd., Missoula (Flathead District)
Dave & Jeanette Dutter, Flathead District
Frances E. & Kay Rollins, St. Ignatius (Flathead District)
Ernest & Kristi Foust, Charlo
Hector Speckert, Polson

****These farmers and ranchers and landowners operate more than 45,000 acres of land on the Flathead Indian Irrigation Project**